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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,117	08/09/2001	Robert Briggs Phillips	VTN-0549	2698

27777 7590 10/10/2002  
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EXAMINER

PICKETT, JOHN GREGORY

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 10/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/925,117

Applicant(s)

PHILLIPS ET AL.

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The applicant states on page 4, lines 4-5 and lines 9-10, a "most" preferable range and then further states an "even more" preferable range further limiting the range. By definition, "most" is a maximum, there is no "even more" available after "most".

Appropriate correction is required.

2. The abstract of the disclosure is objected to because the abstract contains the legal phraseology "said" in reference to components. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (USPN 6,082,533) in view of Itoh et al. (USPN 4,605,142).

Regarding claim 1, Smith et al. discloses a disposable contact lens package 200 comprising a base 12, top surface 160, well 214 for holding a contact lens, a raised seal volume 210 surrounding well 214 and lidstock 30. Smith et al. also discloses linear side 220 forming an angle greater than or equal to 90 degrees (Col. 2, ln 38-42). Smith et al. further discloses, in an alternate embodiment, a package 300, raised surface 310, base 312, top surfaces 370 and 371, and well 314. Embodiment 300 is sealed with lidstock (Col. 3, ln 4-9). Raised surface 310 is arcuate in shape to prevent the collection of aqueous fluid on its surface (Col. 3, ln 9-12).

Smith et al. does not disclose two linear sides intersecting the horizontal plane at angles having values from 125 to 170 degrees.

Itoh et al. discloses a package 1 with a heat-sealed lid 6 and seal volume 5 with two linear sides. The angles formed by the linear walls of seal volume 5 are obtuse with respect to the horizontal plane. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the linear sides of Itoh et al. for the arcuate sides of Smith et al. as a geometric equivalent to facilitate the flow of fluid

from the upper portion of a seal volume. Further, Smith et al. teaches the use of an obtuse linear side (Col. 2, ln 38-42).

As to the angles having values from 125 to 170 degrees, it would have been an obvious matter of design choice to modify Smith et al. with linear sides having values from 125 to 170 degrees since the applicant has not disclosed that having sides at these particular angles solves any stated problem and it appears that the seal volume would perform equally well with side walls at any obtuse angle.

As to claims 2-3, 5-7, and 10-17, it would have been an obvious matter of design choice to modify Smith et al. with a seal volume of dimensions as claimed by the applicant since the applicant has not disclosed that having the seal volume at these dimensions solves any stated problem or is for any particular purpose and it appears that the seal volume would perform equally well using a plurality of dimensional arrangements. Further, it would be well within the skill of the ordinary artisan to optimize the geometric configuration for fluid flow and sealing abilities.

Regarding claims 4, 8, and 9, Smith et al. discloses a raised seal volume 310 at a distance from the perimeter of well 314 defined by flat surface 370. It would have been an obvious matter of design choice to modify Smith et al. with a distance from 1 to 5mm since the applicant has not disclosed that having the seal volume at this particular distance range solves any stated problem or is for any particular purpose and it appears that the seal volume would perform equally well at any distance from the well.

Regarding claims 18-20, Smith et al. discloses a raised seal volume 310 with a rounded surface. It would have been an obvious matter of design choice to modify


Smith et al. with a rounded surface of a radius as claimed by the applicant since the applicant has not disclosed that having the rounded surface at this particular radius range solves any stated problem or is for any particular purpose and it appears that the rounded surface would perform equally well at any radius.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Gregory Pickett  
Examiner  
October 9, 2002

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700